COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: September 30, 2013
FILE NO:

OFFICE CORRESPONDENCE

FROM: RALPH J. WEBB, COMMANDER
EAST PATROL DIVISION

TO: ALICIA E. AULT, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2315077
Incident:	Hit Shooting
Incident Date:	June 21, 2012
Unit:	Century Station
Suspect:	Kenneth Rivera, MH/03-14-85
Involved Employee:	Deputy Norma Silva, #[redacted]
EFRC Date:	September 26, 2013

The Executive Force Review Committee (EFRC) consisting of Commanders Patrick Maxwell, David Halm, and Ralph Webb met and reviewed the above case.

FORCE POLICY RELATING TO INCIDENT:

Law Enforcement officers may use deadly force in self-defense or in the defense of others only when they reasonably believe death or serious physical injury is about to be inflicted upon themselves or others.

FINDINGS:

Century Station received several calls for service regarding a man trying to kidnap a female near 11585 Atlantic Avenue, Lynwood. Described in the call was a male Hispanic suspect with tattoos, no shirt, and wearing blue jeans who attempted to pull a female into his car. The suspect was not successful in taking the victim so he drove across the street to the La Siesta Motel and then stood on the sidewalk in front of the motel.

Deputies responded with lights and sirens to the motel. One of the deputies arrived and noticed the suspect standing on the sidewalk in front of the building as she drove past. The deputy made a U-turn and drove toward the suspect. As she pulled to a stop in front of the motel and was holding her driver's door open with her foot, the suspect ran toward her. The deputy was attempting to place her car in park with her door open when the suspect, with one hand in his pocket and pointing at her with his other hand, quickly ran to her open door. The suspect yelled "Kill" a couple times at the deputy as he dove through her open driver door and pushed his upper torso inside and on top of the deputy. The suspect had her pinned with his body and he grabbed at her pistol while using his body weight on top of her to prevent her from moving. The suspect also took hold of her left arm with his hand and used his body weight to pin her into the seat.

Believing the suspect was attacking her and he was reaching for her weapon in order to kill her, the deputy drew her Beretta and fired three times point blank at the suspect's upper torso in order to defend herself. The deputy shot the suspect as he was still on top of her, pinning her to the driver's seat of her radio car. Two of the three rounds hit the suspect in the torso.

Suspect Rivera was taken to Saint Francis Medical Center and was pronounced dead by the emergency room doctor.

The EFRC determined the force used against the assaultive suspect was within Department policy. The EFRC also determined the tactics used were within Department policy.

RECOMMENDATIONS:

The EFRC recommended the unit commander, Captain Joseph M. Gooden, conduct a tactical debriefing with all involved personnel regarding the unique circumstances of this incident.

RJW:JER:jer

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IAB # SH2315077

DEPUTY INVOLVED SHOOTING REPORT

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 06-21-12	Bureau/Station/Facility: Century Station	Admin. Invest.? [ ] Hit? [x]

Incident Information

URN: 012-09002-2114-013	Date: 06-21-12 Time: 1200 hours
City or Station: Lynwood	Nature of Incident: (See Investigative Summary)
Location: 11585 Atlantic Bl. Lynwood, "La Siesta Motel"	

Location Type (*check one or more*):
- [ ] Backyard
- [ ] Beach
- [ ] Business
- [ ] Freeway
- [ ] Industrial
- [ ] Park
- [ ] Parking Lot
- [ ] Residence
- [ ] Rural
- [ ] School
- [x] Street
- Other:

Lighting (*check only one*):
- [ ] Darkness
- [x] Daylight
- [ ] Other
- [ ] Street Lights

Weather (*circle only one*):
- [x] Clear
- [ ] Cloudy
- [ ] Fog
- [ ] Rain

Distance: Point Blank

Incident Type (*check one or more*):
- [ ] Accidental
- [ ] Armed Person
- [ ] Fleeing Suspect
- [ ] Foot Pursuit
- [x] Gun Take Away
- [ ] Moving Vehicle
- [ ] Sniper/Ambush
- [ ] Startle
- [x] Struggle Involved
- [ ] Traffic Stop
- [ ] Unarmed Person
- [ ] Unintentional
- [ ] Vehicle Pursuit
- [ ] Warrant Service
- [ ] Warning Shot
- Other:

Initiated by (*check only one*):
- [ ] Arrest Warrant
- [x] Call
- [ ] Observation
- [ ] One Person Unit
- [ ] Other
- [ ] Search Warrant
- [ ] Two Person Unit

Prior Activity (*check only one*):
- [ ] Detective
- [ ] Inmate Transport
- [ ] Other
- [x] Routine Patrol

Aero Unit? [ ] Canine Unit? [ ]

Total # of Shots Fired by Deputy: 3

Total # of Shots Fired by Suspect: 0

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*check only one*)	ShiftType (*check only one*)
[redacted]	[redacted]	[redacted]		[ ] EM [ ] PM [x] Day	[x] Regular [ ] Overtime [ ] Off Duty
[redacted]	Shields	Howard		[ ] EM [ ] PM [x] Day	[x] Regular [ ] Overtime [ ] Off Duty
				[ ] EM [ ] PM [ ] Day	[ ] Regular [ ] Overtime [ ] Off Duty

Non-Employee Witnesses

Last Name: [redacted]		First Name: [redacted]		M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph: [redacted]	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	[redacted]	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I.	
Street Address: [redacted]	City: [redacted]	Zip: [redacted]	Work Ph: [redacted]	Home Ph: [redacted]	

Supervisors

Employee #	Last Name	First Name	M.I.	(*check one or more*)
[redacted]	Navarrete	Ronald		[x] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting
				[ ] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Hardy	Paul	

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Gallagher	Liam	

PSTD Use Only

SH # 2315077

SH-R-438A (rev. 04/18/13)

See Reverse

Officer Involved Shooting

RN: 012-09002-2114-03

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
06-21-12	1300 hours	09-04-13	

Employee #	Last Name	First Name	M.I.
[redacted]	Denison	Trent	
[redacted]	Trani	John	
[redacted]	Vaughan	Stephen	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(SS) SIG Sauer
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S	E	PH					CP	BK
E	S	FH	BR	9	Y	Y	GS	BK

Officer Involved Shooting
Involved Employee Information

URN: 02-09002-2114-013

Involved Employee

E 1

Field	Value
Employee #	[redacted]
Last Name	Silva
First Name	Norma
M.I.	
Sex	F
Race	H
Rank	DSG
Unit Assignment	Century
Work Assignment (Unit #, Module, etc.)	212B1
ShiftTime (*circle only one*)	[ ] EM [ ] PM [x] Day
ShiftType (*circle only one*)	[x] Regular [ ] Overtime [ ] Off Duty
Intoxication/Drug Usage?	[ ]
Substance Used	
Hospital Admission?	[ ]
Hospital Name	
Coroner Case?	[ ]
Coroner Case #	
Interviewed?	[x]
Hrs of sleep prior to shooting	5 - 6
Duty Time (hrs)	[redacted]
Age	[redacted]
Height	5'09"
Weight	170lbs.
Clothing (*circle only one*)	[ ] Plain Clothes no Vest [ ] Plain Clothes w/ Vest [ ] Raid Jacket no Vest [ ] Raid Jacket w/ Vest [ ] Uniform no Vest [x] Uniform w/ Vest
Other Factors	
Range Qualification Date	[redacted]
PPC Qualification Date	[redacted]
Laser Training Date	[redacted]
Certified with Weapon Used?	[redacted]
Patrol Certification?	[redacted]
Certification Unit	[redacted]
Prior Shootings?	[redacted]
Number of Prior Shootings	[redacted]
Directed Force	[ ]
Weapons Fired Brand	Beretta
Caliber	9mm
# Shots	3
Weapons Fired Brand	
Caliber	
# Shots	
Field Training Officer Emp #	[redacted]
Last Name	[redacted]
First Name	[redacted]
M.I.	
Field Training Officer Emp [redacted]st Name	[redacted]
First Name	[redacted]
M.I.	

E __

Field	Value
Employee #	
Last Name	
First Name	
M.I.	
Sex	
Race	
Rank	
Unit Assignment	
Work Assignment (Unit #, Module, etc.)	
ShiftTime (*circle only one*)	[ ] EM [ ] PM [ ] Day
ShiftType (*circle only one*)	[ ] Regular [ ] Overtime [ ] Off Duty
Intoxication/Drug Usage?	[ ]
Substance Used	
Hospital Admission?	[ ]
Hospital Name	
Coroner Case?	[ ]
Coroner Case #	
Interviewed?	[ ]
Hrs of sleep prior to shooting	
Duty Time (hrs)	
Age	
Height	
Weight	
Clothing (*circle only one*)	[ ] Plain Clothes no Vest [ ] Plain Clothes w/ Vest [ ] Raid Jacket no Vest [ ] Raid Jacket w/ Vest [ ] Uniform no Vest [ ] Uniform w/ Vest
Other Factors	
Range Qualification Date	
PPC Qualification Date	
Laser Training Date	
Certified with Weapon Used?	[ ]
Patrol Certification?	[ ]
Certification Unit	
Prior Shootings?	[ ]
Number of Prior Shootings	
Directed Force	[ ]
Weapons Fired Brand	
Caliber	
# Shots	
Weapons Fired Brand	
Caliber	
# Shots	
Field Training Officer Emp #	
Last Name	
First Name	
M.I.	
Field Training Officer Emp #	
Last Name	
First Name	
M.I.	

E __

Field	Value
Employee #	
Last Name	
First Name	
M.I.	
Sex	
Race	
Rank	
Unit Assignment	
Work Assignment (Unit #, Module, etc.)	
ShiftTime (*circle only one*)	[ ] EM [ ] PM [ ] Day
ShiftType (*circle only one*)	[ ] Regular [ ] Overtime [ ] Off Duty
Intoxication/Drug Usage?	[ ]
Substance Used	
Hospital Admission?	[ ]
Hospital Name	
Coroner Case?	[ ]
Coroner Case #	
Interviewed?	[ ]
Hrs of sleep prior to shooting	
Duty Time (hrs)	
Age	
Height	
Weight	
Clothing (*circle only one*)	[ ] Plain Clothes no Vest [ ] Plain Clothes w/ Vest [ ] Raid Jacket no Vest [ ] Raid Jacket w/ Vest [ ] Uniform no Vest [ ] Uniform w/ Vest
Other Factors	
Range Qualification Date	
PPC Qualification Date	
Laser Training Date	
Certified with Weapon Used?	[ ]
Patrol Certification?	[ ]
Certification Unit	
Prior Shootings?	[ ]
Number of Prior Shootings	
Directed Force	[ ]
Weapons Fired Brand	
Caliber	
# Shots	
Weapons Fired Brand	
Caliber	
# Shots	
Field Training Officer Emp #	
Last Name	
First Name	
M.I.	
Field Training Officer Emp #	
Last Name	
First Name	
M.I.	

Officer Involved Shooting
Suspect Information

URN: 012-09002-2114-013

Suspect Information

S 1

Last Name: Rivera		First Name: Kenneth	M.I. III
AKA Last Name		First Name	M.I.
Sex: M Race: Hispanic	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 27 D.O.B. 03-14-85	Height: 5'10" Weight: 200	FBI # [redacted]	CII # [redacted]
Booking # None	Primary Charge: None		Secondary Charge: None
Coroner Case? ☑	Coroner Case # 2012-04114	Intoxication/Drug Usage? ☑	Substance Used: Methamphetamine
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History [redacted]
Vehicle Make N/A		Model:	Year:

S

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S

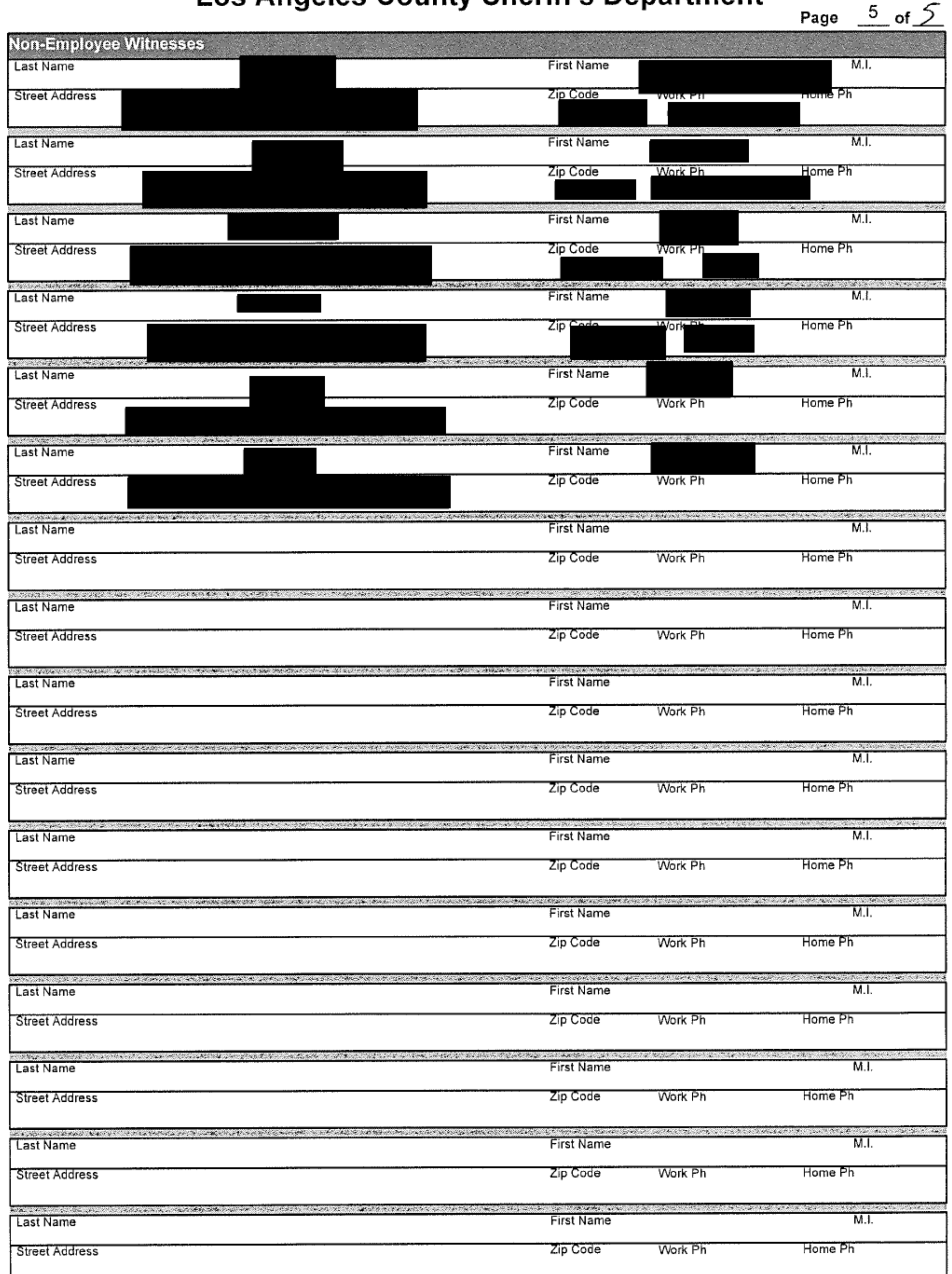
Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department



Non-Employee Witnesses

Last Name [redacted]	First Name [redacted]		M.I.
Street Address [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph
Last Name [redacted]	First Name [redacted]		M.I.
Street Address [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph
Last Name [redacted]	First Name [redacted]		M.I.
Street Address [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph
Last Name [redacted]	First Name [redacted]		M.I.
Street Address [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph
Last Name [redacted]	First Name [redacted]		M.I.
Street Address [redacted]	Zip Code	Work Ph	Home Ph
Last Name [redacted]	First Name [redacted]		M.I.
Street Address [redacted]	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph
Last Name	First Name		M.I.
Street Address	Zip Code	Work Ph	Home Ph

INVESTIGATIVE SUMMARY

Investigative Summary

Incident: Deputy Involved Hit Shooting
LASD Report: 012-09002-2114-013
IAB File: SH2315077

Opening Statement
On June 21, 2012, Internal Affairs Bureau investigators responded to an incident command post, erected by Century Station personnel on Paramount Boulevard in Lynwood. Sergeant Trent Denison, Sergeant John Trani and Lieutenant Steven Vaughn were briefed regarding the circumstances of a Deputy Involved Shooting. Sergeant Denison was assigned the responsibility for the administrative review of the incident.

Synopsis
On June 21, 2012 at 1155 hours, Century Station received several calls for service regarding a man trying to kidnap a female near 11585 Atlantic Avenue, Lynwood. Described in the call was a male Hispanic suspect with tattoos, no shirt and wearing blue jeans who attempted to pull a female into his car. The suspect was not successful in taking the victim so he drove across the street to the La Siesta Motel and then stood on the sidewalk in front of the motel.

Deputy Norma Silva (in a one person patrol unit) and two additional units responded with lights and sirens to the motel. Deputy Silva was first to arrive and noticed the described suspect, Suspect Rivera, standing on the sidewalk in front of the building as she drove past. Deputy Silva made a u-turn and drove toward the suspect. As Deputy Silva pulled to a stop in front of the motel and was holding her driver's door open with her foot, Suspect Rivera ran toward her. Deputy Silva was attempting to place her car in park with her door open when Suspect Rivera, with one hand in his pocket and pointing at her with his other hand, quickly ran to her open door. Suspect Rivera yelled "Kill" a couple times at Deputy Silva as he dove through her open driver door and pushed his upper torso inside and on top of Deputy Silva. She was still seated at the wheel. Suspect Rivera pushed his upper torso on top of Deputy Silva with his chest against hers and his head almost touching face to face which caused her to lean over to the passenger side of her car. Suspect Rivera had her pinned with his body and he grabbed at her pistol while using his body weight on top of her to prevent her from moving. He also took hold of her left arm with his hand and used his body weight to pin her into the seat. This prevented her from being able to push him off of her when she tried.

Deputy Silva believed Suspect Rivera attacked her and he was reaching for her weapon in order to kill her. She drew her Beretta and fired three times point blank at Suspect Rivera's upper torso in order to defend herself. Deputy Silva shot Suspect Rivera as he was still on top of her, pinning her to the driver's seat of her radio car. Two of the three rounds hit Suspect Rivera in the torso.

Because Deputy Silva had not been able to place her car in park before she was attacked, her car remained in gear and rolled forward toward the curb at the time she fired and Suspect Rivera fell backward from her car after she fired her weapon.

Suspect Rivera was taken to Saint Francis Medical Center and was pronounced dead by the ER doctor.

Homicide detectives documented their investigation of the incident in their Homicide Book **[Exhibit A]**.

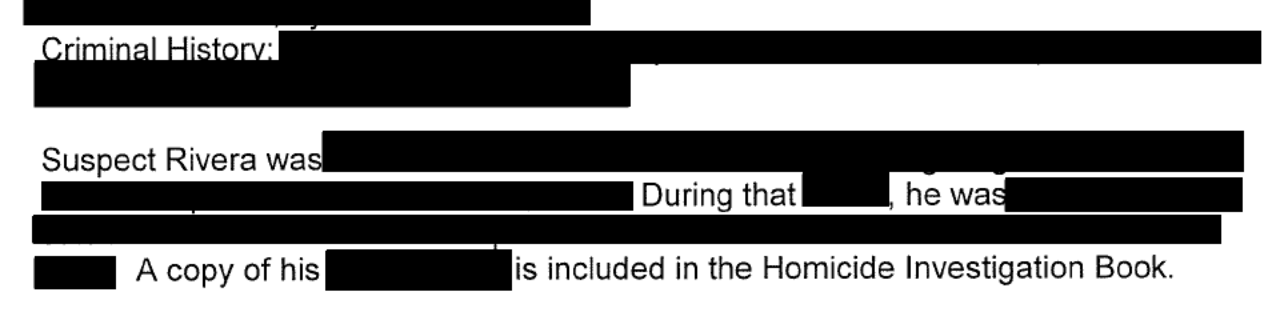
The District Attorney's office reviewed the investigation and authored a Letter of Opinion stating Deputy Silva acted within the law and there would be no further action from the District Attorney. For more information see the Letter of Opinion **[Exhibit B]**.

Involved Personnel

Deputy **Norma Silva #**[redacted], Century Station

Work History
Date of Employment: 08-2004
Date Assigned to Patrol: [redacted]
Date Assigned to Century Station: 04-2008

Suspects
Rivera, Kenneth III, MH/03-14-85, 5'10", 200lbs.



[redacted]

Criminal History: [redacted]

Suspect Rivera was [redacted] During that [redacted], he was [redacted] A copy of his [redacted] is included in the Homicide Investigation Book.

Civilian Witnesses
Homicide detectives located numerous civilian witnesses, most of which were interviewed in the presence of IAB investigators. For more information and summaries of witness interviews, see the Homicide Investigation Book **[Exhibit A]**, pages 34 - 64.

Sworn Witnesses
Deputy [redacted] #[redacted]
Deputy Howard Shields #[redacted]

Injuries
Suspect Rivera died as a result of multiple gunshot wounds. For more information, see the Autopsy Report found on page 149 of the Homicide Investigation Book.

Deputy Silva received a strain to her back as a result of her struggle with Suspect Rivera when he attacked her.

Physical Evidence
All physical evidence was located, and collected and documented by Homicide and Scientific Services Bureau personnel. For more information, see the evidence supplemental reports in the Homicide Investigation Book. Also see the recorded 911 phone calls, Sheriff's Department emergency radio transmission and crime scene photographs contained on the CD's in **[Exhibit C]**.

Investigators Observations
IAB investigators stayed a short distance outside of the crime scene in order to keep it preserved for the Homicide investigation. IAB investigators noticed a marked black and white patrol vehicle parked facing north in the southbound lane in front of the La Siesta Motel with the driver's door fully open. The vehicle was reportedly the car Deputy Silva was driving at the time of the incident and left parked in place as it was at the time of the incident. There were no other observations made.

Weapon used by Dep Silva
Department issued Beretta 92F 9mm semi automatic pistol. Department issued 9mm Winchester bullets.

Weapon used by Suspect Rivera
None

Property Damage
None

Criminal Investigator
None - suspect deceased

Lighting and Weather Conditions

This incident took place during the middle of the day. The weather was hot and clear.

Involved and witness Deputy interviews

Deputies [redacted] Shields and Silva were interviewed by Homicide Investigators on June 21, 2012. A summary of their interviews may be found in the Homicide Investigation Book. Deputy Silva's interview is on page 49 of the Homicide Investigation Book. Internal Affairs investigators reviewed the tape recording of the interviews and found that Homicide's summary of their interviews is an accurate account of what was said.

Internal Affairs investigators interviewed Deputy Silva on August 20, 2013. The following is a summary of that interview. For more information and precise wording, see the attached verbatim interview transcription.

Deputy **Norma Silva** said she received a call regarding a attempt kidnapping just occurred, which was a few blocks from where she was patrolling. She acknowledged the call and responded with emergency lights and siren to the address of the call. She said the call was updated on the radio with a suspect description and also that the suspect had left the location and was standing in front of the "La Siesta Motel" which was across the street from the original location of the call.

Deputy Silva said she received the suspect's updated location just as she was driving past the motel and noticed Suspect Rivera matched the description and was standing on the sidewalk in front of the motel's driveway. She made a u-turn and drove north in the southbound lanes in order to detain Suspect Rivera at gunpoint, pending the arrival of her assisting units, which she knew were close by. Deputy Silva said the nature of the call being a violent attempt kidnapping and possibly related to similar calls Century Station personnel had been briefed on previously, caused her to believe she should immediately detain the suspect at gunpoint instead of waiting for assisting units to arrive. She added that she had just driven past Suspect Rivera and thought he may try to flee.

Deputy Silva said she was pulling up to the curb at an angle and about to shift her car into park while she held her driver door open with her foot outside of it. This is when Suspect Rivera pointed his finger at her with one hand while keeping his other hand in his pocket. She said she had not yet come to a complete stop when she saw Suspect Rivera point at her and yelled "Kill, Kill" with a angry expression on his face. As he yelled "Kill" he ran directly at her and jumped inside her open driver's door. He pinned her to her seat using his body weight against her body, chest to chest. Deputy Silva said he pushed her toward the passenger seat and she tried, but was unable to push him off of her. She added that her left hand and arm were near her face but pinned by Suspect Rivera and Suspect Rivera grabbed at her pistol, which she had drawn when he jumped on top of her. She held her gun near her waistline while Suspect Rivera pushed her against the center console and passenger seat of her car.

Deputy Silva said Rivera grabbed hold of her right forearm in what she believed was an effort to get her gun. She feared he was trying to kill her because of how he had her pinned and he had yelled "Kill" and was attacking her violently. She said she had no choice but to shoot Suspect Rivera.

Deputy Silva said she had to fire at point blank range because Rivera had pinned her down and she could not get a sight picture as he continued to grab for her weapon. She fired three times at his upper left torso area and, immediately, Suspect Rivera went limp. She said she had not been able to place her car in park prior to Rivera attacking her so her car rolled forward several feet during the attack. She believed this is why Suspect Rivera fell backward out of the car and onto the ground.

Deputy Silva said she remained seated in her car and immediately requested emergency clearance on the radio and broadcasted that she had been in a shooting and requested paramedics to respond to treat Suspect Rivera. Deputy Silva said she looked out her door after getting on the radio to hold Rivera at gunpoint and noticed her assisting deputies placing Suspect Rivera in handcuffs on the ground outside her car door. She added paramedics responded within minutes.

Deputy Silva said the entire incident, beginning when she pulled up to the motel until the shooting was over, lasted a matter of only seconds.

IAB note: Upon review of the 911 audio recordings, witnesses indicate the arrival of Deputy Silva and, almost instantaneously, gunshots are heard over the phone and witnesses say that a shooting occurred. For more information, review the audio recording of the 911 calls and of Deputy Silva broadcasting emergency traffic on the CD in Exhibit C.

At the start of this incident, Deputy Silva said her intention was to take immediate action to detain Suspect Rivera pending the arrival of assisting units so that Rivera would not assault another victim or flee. She said once she was under attack, she acted as she had been trained by the Department and tried to push Suspect Rivera off of her. Her frame of mind was that Suspect Rivera was trying to kill her and, because she was unable to push him off, she had no other option than deadly force available to defend herself under the circumstances.

Deputy [redacted] said he heard broadcast on L-Tac that a kidnapping call was about to be dispatched so he acknowledged the call and took the handle. He said there was a lot of radio traffic **(regarding the call)** however, he coordinated units to respond since he was seconds away from the location.

Deputy [redacted] said he responded to the location while following behind unit 212B1 Deputy Howard Shields. He said as they neared the location, he saw another unit make a u-turn in front of them and pull up to the hotel where Suspect Rivera was standing. As the unit pulled up with the driver's door open and was coming to a stop, he saw Suspect Rivera immediately run and jump through the open car door. He saw Rivera push himself farther inside the car. Deputy [redacted] described Rivera as trying to "spear himself" into the open car door from a full sprint. He said Rivera also pushed his legs in an effort to get farther inside the car.

Deputy [redacted] said he came to a stop behind Deputy Silva's car and saw Suspect Rivera fall out of Silva's car and onto the ground. He did not hear gunshots since his window was still closed. Deputy [redacted] aid he assisted Deputy Shields handcuff Suspect Rivera.

Deputy **Howard Shields** said he heard a radio broadcast of a kidnapping which was approximately one half to three quarters of a mile away from him. He drove north on Atlantic Boulevard at Courtland Street and was trying to get around vehicle traffic when he saw another radio car **(Deputy Silva)** drive up to the hotel with her car door open. He saw Suspect Rivera standing on the sidewalk as Deputy Silva was slowing to a stop.

Deputy Shields said he was pulling up behind Deputy Silva's car when he noticed the suspect had a facial expression of rage on his face. He then saw Suspect Rivera charge at Deputy Silva while putting his right hand into his pants pocket. He added that he saw Suspect Rivera pushing Deputy Silva inside her car and he heard approximately two to three gunshots and saw Suspect Rivera fall out of Silva's car. Deputy Shields said he was approximately twenty feet away at the time of his observations.

Deputy Shields said Deputy [redacted] was behind him and the two of them handcuffed Suspect Rivera on the ground.

<u>Civilian Witness Statements</u>

Civilian witnesses were identified by Century Station deputies and Homicide detectives. The following are summaries of the witness statements. For further information, see the referenced page numbers the statements may be found in the Homicide Investigation Book.

Witness [redacted] (Pages 13 & 45) said she heard screaming outside her home and looked outside. She saw Suspect Rivera standing on the sidewalk next to a vehicle, which had it's door open. She saw Suspect Rivera punching and kicking a female Hispanic who was seated in the front passenger seat. The female escaped from the vehicle and Suspect Rivera drove across the street to the "La Siesta Motel".

Witness [redacted] saw Deputy Silva arrive and drive up to Suspect Rivera as he stood on the sidewalk in front of the motel. She saw Suspect Rivera had both hands up at one time but lowered one (unknown which hand) and he yelled at Deputy Silva in a aggressive manner however, she could not understand what he was saying. Witness [redacted] saw Suspect Rivera run to the driver's side of the patrol car while yelling at Deputy Silva. Witness [redacted] said she heard a gunshot and saw deputies arrive.

Witness [redacted] (Page 22 & 53) said he was at work in the [redacted] which is [redacted] he street from the "La Siesta Motel", when he heard Suspect Rivera arguing with two female Hispanics. The argument was occurring at the corner of Atlantic Avenue and Cortland Avenue. Witness [redacted] said Suspect Rivera grabbed one of the females and attempted to force her into his vehicle against her will. He said the second female punched Suspect Rivera and tried pulling her friend away from Suspect Rivera. Suspect Rivera released his grip and then drove to the motel. Witness [redacted] called 911 to report the incident.

Witness [redacted] said he saw a police car arrive in front of the motel where Suspect Rivera was standing on the sidewalk. He said Suspect Rivera walked aggressively toward the deputy while yelling profanities and acting combative as if he was going to assault the deputy. He then heard three to four gunshots come from in front of the motel where the police car was at.

Witness [redacted] (Page 23 & 54) said he was at his work in the auto shop directly across from the motel when he heard Suspect Rivera arguing with two female Hispanics down the street. He saw Suspect Rivera grab one of the females and try to put her in his car while she fought with him. Suspect Rivera eventually released the female and drove his car to the motel.

Witness [redacted] saw a police car arrive moments later in front of the motel where Suspect Rivera was standing on the sidewalk. He saw Suspect Rivera walk aggressively toward Deputy Silva while yelling profanities at her and acting combative as if he was going to assault Deputy Silva. He then heard three to four gunshots come from in front of the motel where the police car was located.

Witness [redacted] (Page 34) said he was driving on Atlantic Avenue when he saw Deputy Silva make a u-turn on Atlantic and stop at a motel. He said Suspect Rivera, who was not wearing a shirt, ran out from the motel within a second of Deputy Silva arriving, with her door open, and he had his hands in the air at shoulder height. He said as soon as Suspect Rivera reached the door he bent down as if he was going to tell the deputy something. Witness [redacted] said he then heard three gunshots. He added that within seconds, more deputies arrived.

Witness [redacted] (Page 43) said he is the "La Siesta Motel" [redacted] and has seen Suspect Rivera act unusual on numerous occasions such as yelling to no body in particular, "kill me, shoot me" and "they're trying to get me" while staying in a room at the motel. He said on the day of this incident he saw a police car pass by the motel and it appeared Suspect Rivera did too. He said Suspect Rivera walked out to the sidewalk and the police car was pulling up to stop in front of the motel. Witness [redacted] said he stood outside his [redacted] and saw Suspect Rivera appeared angered and enraged. He heard Suspect Rivera screaming "fuck you, mother fuck you!" It did not appear Suspect Rivera was saying this to anyone in particular.

Witness [redacted] saw Deputy Silva came to a stop in front of the motel and Suspect Rivera ran fast toward her partially open driver's door. He added Deputy Silva's eyes were wide open and believed she drew her gun from a seated position and heard her yell "stop" and "put your hands up". He said Suspect Rivera yelled "shoot me, shoot me, what are you going to do, fucken kill me!" Witness [redacted] believed the police car door was fully open by the time Suspect Rivera reached it and Deputy Silva was still seated inside. He said Suspect Rivera's hands were up above shoulder level and extended to the front as he continued to move rapidly toward Deputy [redacted] He could not tell if Suspect Rivera was raising his hands up or if he was extending them to lung at her. He believed Suspect Rivera made physical contact with Deputy [redacted] when he heard gunshots. More deputies arrived within a minute of the shooting.

Witness [redacted] (Pages 13 & 59) said she was in her business, which is located [redacted] of the kidnapping and the motel. She said two girls came into her business after one of them was almost kidnapped by Suspect Rivera. She said she was crossing the street in order to see the suspect's license plate number and saw Suspect Rivera had since moved to across the street in front of the motel. He was on the sidewalk when police cars arrived. She said Suspect Rivera raised his hands in the air while yelling "I'm here, I'm here" and when the police cars arrived, Suspect Rivera walked toward them. She heard gunshots, so she ducked to the ground believing Suspect Rivera was shooting. She looked up and saw Suspect Rivera had been shot.

Witness [redacted] (Pages 13 & 61) said two young females came into the business [redacted] and said someone had just tried to kidnap one of them. He saw a police car make a u-turn on Atlantic Avenue and Courtland Avenue then stop in front of Suspect Rivera, who was standing on the sidewalk in front of the motel. He said Suspect Rivera had his hands in the air and walked toward Deputy Silva as Deputy Silva opened her car door, and another police car pulled up. He said Deputy Silva opened her door and started shooting at the suspect. He added Suspect Rivera fell to his knees and was blocking Deputy Silva from getting out so a male deputy threw him to the ground and he was handcuffed.

Witness [redacted] (Page 62) said she was inside her [redacted] when two girls came inside and said a man tried to kidnap them. She called 911 to report the incident and saw police cars arriving outside. She went outside and saw Suspect Reyes standing in front of the motel as Deputy Silva pulled to a stop. She said Suspect Rivera was angry and yelled "I'm here, I'm here" when Deputy Silva stopped and opened her door. Suspect Rivera walked toward Deputy Silva with his hands in the air and came within a couple feet of Deputy Silva when Deputy Silva shot him. She said a male deputy placed Suspect Rivera in handcuffs and put him on the ground.

IAB note: **Witness [redacted] later said Suspect Rivera fell to the ground after he was shot. She also said she could not see more because of the way the police cars were parked.**

Witnesses [redacted], [redacted] and [redacted] are [redacted] and [redacted] the business the kidnap victim ran into at the time of this incident. The business has surveillance cameras however, the portion of the tape which may have captured part of this incident had been erased prior to Homicide's investigation. The handling Homicide investigators believed the witnesses erased the tape in fear of retaliation from persons in the neighborhood. All three witnesses had discussed with each other, what they had seen during the incident and prior to Homicide detectives contacting them.

Suspect Statements

None



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
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SCOTT K. GOODWIN • Director

January 30, 2013

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #12-0425
L.A.S.D. File #012-09002-2114-013

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 21, 2012, fatal shooting of Kenneth Rivera III by Los Angeles County Sheriff's Department (LASD) Deputy Norma Silva. We have concluded that Deputy Silva acted lawfully in self-defense.

The District Attorney Command Center was notified of the shooting at approximately 1:47 p.m., on June 21, 2012. The District Attorney Response Team, comprised of Deputy District Attorneys Jason Lustig and Kevin Stennis and District Attorney Senior Investigators [redacted], responded to the location. They were given a briefing of the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based upon investigative reports, analyzed evidence reports and witness statements taken during the investigation by the LASD and submitted to this office by Detectives Timothy O'Quinn and Richard Ramirez. Compelled statements were not considered in this analysis.

FACTUAL ANALYSIS

On June 21, 2012, at about 11:48 a.m. [redacted] was sitting on a planter with her friend [redacted] outside of a business on the west side of Atlantic Avenue in the City of Lynwood. Kenneth Rivera drove up in a car, got out, grabbed Gabriela's throat and pulled her into the front passenger sea[redacted] begged Rivera to let her go as she kicked him [redacted] tried to free [redacted] by pulling her hair and pushing Rivera's back while yelling repeatedly, "What the fuck!" Rivera looked at [redacted] and stated, "No, I can't do this. Why can't I get a lady?" He then abruptly threw [redacted] to the sidewalk. Rivera entered his car yelling, "Fuck, fuck, fuck!"

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As he drove away, Rivera confronted an onlooker by asking, "What the fuck you looking at?" He drove north on Atlantic Avenue to the La Siesta motel located diagonally across the street.[1] [redacted] and [redacted] entered a nearby business and a male inside called the police. While the girls were inside the business, they heard Rivera cursing loudly standing in front of the motel.

Deputy Silva was on patrol alone in a marked police car when she heard a radio broadcast that an attempted kidnapping had just occurred at the intersection of Atlantic Avenue and Cortland Street. The suspect was described as a male wearing blue jeans without a shirt. Silva received further information that the suspect was still in the area and was possibly in front of a motel on Atlantic Avenue. Silva responded to the call by driving south on Atlantic Avenue with her emergency lights and siren on. Less than two minutes after the radio broadcast, Silva passed the La Siesta motel and saw Rivera standing in front wearing blue jeans with no shirt.

Silva made a u-turn at Cortland Street, drove north in the southbound lanes of Atlantic Avenue, and pulled to the curb in front of the motel. Rivera was still standing in the driveway entrance to the motel. As Silva was simultaneously placing the vehicle in park, opening the driver's door and placing her left foot on the ground, she saw that Rivera had his right hand in his front pants pocket and a "look of rage" on his face. Without warning, Rivera ran with outstretched arms toward Deputy Silva, screaming "Shoot me, shoot me! What are you going to do? Fuckin' kill me!" Silva yelled, "Stop! Put your hands up!" Rivera dove through the open driver's door at Silva who was still seated in the driver's seat. Silva laid back and pulled her service weapon from the holster on the right side of her belt. Rivera was on top of Silva with his face against the right side of her face. Silva's movement was restricted by Rivera's weight.[2] She felt his left arm reaching toward the service weapon in her right hand. Rivera continued to yell. Believing that Rivera was trying to take the firearm from her right hand which was close to her chest, Silva fired three times at Rivera's upper torso.[3] The patrol car rolled forward causing Rivera to fall out of the car onto the ground. Another responding deputy handcuffed Rivera.

Responding paramedics transported Rivera to the hospital where he was pronounced dead at 12:17 p.m. On June 27, 2012, Deputy Medical Examiner Ajay Panchal performed a postmortem examination of Rivera's remains and determined the cause of death to be multiple (2) gunshot wounds to the back of the left arm and left back. The direction of both wounds was back to front and left to right. His blood showed evidence of methamphetamine and marijuana consumption. Inside Rivera's motel room, investigators recovered .16 gram of methamphetamine, .91 gram of marijuana and drug pipes.

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[1] Several witnesses from nearby businesses had seen Rivera exhibiting bizarre behavior while standing in front of the motel earlier in the day. He was seen waving and yelling angrily at passing cars, and talking to himself. The motel owner said Rivera appeared to be paranoid and often talked to himself since he began staying at the motel on June 4, 2012.

[2] Rivera was 27 years old, 5 feet 11 inches tall and weighed 207 pounds.

[3] Deputy Silva was armed with a Beretta model 92F, 9mm semiautomatic handgun.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also*, California Criminal Jury Instructions (CALCRIM) No. 505.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"When the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined in this investigation shows that Deputy Norma Silva was responding to a radio call of an attempted kidnapping that had just occurred. When she arrived in the area, Deputy Silva observed Kenneth Rivera who matched the kidnapping suspect's description and was standing in the precise location identified in the broadcast. When she attempted to contact him, Rivera ignored her commands to stop and attacked Deputy Silva before she was able to exit the patrol car. Rivera pinned her against the driver's seat and reached for the service weapon in her right hand. Reasonably believing that Rivera was trying to disarm her and in fear of imminent great bodily injury or death, Deputy Silva fired three rounds from her service weapon, striking Rivera twice and ending the threat.

Given the rapidly evolving, life threatening situation that confronted Deputy Silva, we conclude that she acted lawfully in self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

JASON P. LUSTIG
Deputy District Attorney
(213) 974-3888

c: Deputy Norma Silva #[redacted]